



# House of Representatives

General Assembly

**File No. 488**

February Session, 2016

Substitute House Bill No. 5454

*House of Representatives, April 6, 2016*

The Committee on Public Health reported through REP. RITTER of the 1st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE CONNECTICUT HEALTH AND EDUCATIONAL FACILITIES AUTHORITY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10a-178 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2016*):

3 As used in this chapter, the following words and terms shall have  
4 the following meanings unless the context indicates another or  
5 different meaning or intent:

6 (a) "Authority" means the State of Connecticut Health and  
7 Educational Facilities Authority created by section 10a-179 or any  
8 board, body, commission, department or officer succeeding to the  
9 principal functions thereof or to whom the powers conferred upon the  
10 authority by this chapter shall be given by law;

11 (b) "Project", in the case of a participating institution for higher  
12 education, means a structure suitable for use as a dormitory or other

13 housing facility, including housing for staff members, employees or  
14 students at such institution of higher education, dining hall, student  
15 union, administration building, academic building, library, laboratory,  
16 research facility, classroom, athletic facility, health care facility, and  
17 maintenance, storage or utility facility and other structures or facilities  
18 related thereto or required or useful for the instruction of students or  
19 the conducting of research or the operation of an institution for higher  
20 education, including parking and other facilities or structures essential  
21 or convenient for the orderly conduct of such institution for higher  
22 education, also including equipment and machinery and other similar  
23 items necessary or convenient for the operation of a particular facility  
24 or structure in the manner for which its use is intended or for the  
25 operation of a participating institution for higher education, or any  
26 combination thereof, but shall not include such items as books, fuel,  
27 supplies or other items the purchase of which is customarily deemed  
28 to result in a current operating charge; in the case of a participating  
29 health care institution, means a structure suitable for use as a hospital,  
30 clinic, or other health care facility, laboratory, laundry, residence  
31 facility, including housing for nurses, interns, staff members,  
32 employees or students at such health care institution and their  
33 immediate families and for physically or mentally handicapped  
34 persons, administration building, research facility, and maintenance,  
35 storage or utility facility and other structures or facilities related  
36 thereto or required or useful for the operation of the project, including  
37 parking and other facilities or structures essential or convenient for the  
38 orderly operation of such project, also including equipment and  
39 machinery and other similar items necessary or convenient for the  
40 operation of the project in the manner for which its use is intended or  
41 for the operation of a participating health care institution, or any  
42 combination thereof, but shall not include such items as fuel, supplies  
43 or other items the purchase of which is customarily deemed to result in  
44 a current operating charge; in the case of a participating qualified  
45 nonprofit organization, means a structure or facility owned in its  
46 entirety by, or suitable for use in accordance with the charitable or  
47 nonprofit status of the qualified nonprofit organization, also including

48 equipment and machinery and other similar items necessary or  
49 convenient for the operation of the project in the manner for which its  
50 use is intended or for the operation of a participating qualified  
51 nonprofit corporation; and, in the case of a participating nursing home,  
52 means a structure or facility suitable for use as a nursing home,  
53 residential care home, rest home, health care facility for the  
54 handicapped, mental health facility or independent living facility  
55 subject to the licensing requirements of chapter 368v and appurtenant  
56 facilities, equipment and machinery and other similar items necessary  
57 or convenient for the operation of a particular facility or structure in  
58 the manner for which its use is intended or for the operation of a  
59 participating nursing home;

60 (c) "Cost" as applied to a project or any portion thereof financed  
61 under the provisions of this chapter embraces all or any part of the cost  
62 of construction and acquisition of all lands, structures, real or personal  
63 property, rights, rights-of-way, franchises, easements and interests  
64 acquired or used for a project, the cost of demolishing or removing any  
65 buildings or structures on land so acquired, including the cost of  
66 acquiring any lands to which such buildings or structures may be  
67 moved, the cost of all machinery and equipment, financing charges,  
68 interest prior to, during and for a period after completion of such  
69 construction, provisions for working capital, reserves for principal and  
70 interest and for extensions, enlargements, additions, replacements,  
71 renovations and improvements, cost of engineering, financial and legal  
72 services, plans, specifications, studies, surveys, estimates of cost and of  
73 revenues, administrative expenses, expenses necessary or incident to  
74 determining the feasibility or practicability of constructing the project  
75 and such other expenses as may be necessary or incident to the  
76 construction and acquisition of the project, the financing of such  
77 construction and acquisition and the placing of the project in  
78 operation;

79 (d) "Bonds" means bonds of the authority issued under the  
80 provisions of this chapter, including refunding bonds,  
81 notwithstanding that the same may be secured by mortgage or the full

82 faith and credit of the authority or the full faith and credit of a  
83 participating institution for higher education, a participating health  
84 care institution, a participating corporation, a participating nursing  
85 home or a participating qualified nonprofit organization or any other  
86 lawfully pledged security of a participating institution for higher  
87 education, a participating health care institution, a participating  
88 corporation, a participating nursing home or a participating qualified  
89 nonprofit organization;

90 (e) "Institution for higher education" means (1) an educational  
91 institution situated within this state which by virtue of law or charter  
92 is a nonprofit educational institution empowered to provide a program  
93 of education beyond the high school level, [;] or (2) a public  
94 educational institution, which, shall be any constituent unit, as defined  
95 in section 10a-1;

96 (f) "Participating institution for higher education" means an  
97 institution for higher education which, pursuant to the provisions of  
98 this chapter, shall undertake the financing and construction or  
99 acquisition of a project or shall undertake the refunding or refinancing  
100 of obligations or of a mortgage, or advances made or given for the  
101 costs of a project, as provided in and permitted by this chapter;

102 (g) "Health care institution" means (1) any nonprofit, state-aided  
103 hospital or other health care institution, including The University of  
104 Connecticut Health Center, which is entitled, under the laws of the  
105 state, to receive assistance from the state by means of a grant made  
106 pursuant to a budgetary appropriation made by the General  
107 Assembly, (2) any other hospital or other health care institution which  
108 is licensed, or any nonprofit, nonstock corporation which shall receive  
109 financing or shall undertake to construct or acquire a project which is  
110 or will be eligible to be licensed, as an institution under the provisions  
111 of sections 19a-490 to 19a-503, inclusive, or any nonprofit, nonstock,  
112 nonsectarian facility which is exempt from taxation under the  
113 provisions of section 12-81 or 38a-188 and which is a health care center  
114 under the provisions of sections 38a-175 to 38a-191, inclusive, or (3)

115 any nonprofit corporation wholly owned by two or more hospitals or  
116 other health care institutions which operates for and on behalf of such  
117 hospitals or other health care institutions a project, as defined in  
118 subsection (b) of this section, or is a nursing home;

119 (h) "Nursing home" means any institution which is or will be  
120 eligible to be licensed as an institution under sections 19a-490 to 19a-  
121 503, inclusive, or a facility which (1) provides chronic and convalescent  
122 nursing care, (2) is a rest home with nursing facilities, (3) provides  
123 health care facilities for the handicapped, (4) is a home for elderly  
124 persons or physically handicapped or mentally handicapped persons  
125 or (5) is a continuing care facility registered with the Department of  
126 Social Services, pursuant to chapter 319f;

127 (i) "Participating nursing home" means a nursing home which,  
128 pursuant to the provisions of this chapter, undertakes the financing  
129 and construction or acquisition of a project or undertakes the  
130 refunding or refinancing of obligations or of a mortgage, loans or  
131 advances made or given for the costs of a project as provided in and  
132 permitted by this chapter;

133 (j) "Participating health care institution" means a health care  
134 institution which, pursuant to the provisions of this chapter,  
135 undertakes the financing and construction or acquisition of a project or  
136 undertakes the refunding or refinancing of obligations or of a  
137 mortgage, loan or advances made or given for the cost of a project as  
138 provided in and permitted by this chapter;

139 (k) "Participating corporation" means any nonprofit corporation  
140 created by a participating health care institution or a participating  
141 institution for higher education, or by one or more of them in  
142 combination, and to which there has been or will be transferred all  
143 right, title and interest in a project for the sole purpose of operating  
144 such project on behalf of such participating institution or institutions  
145 for the life of the bonds issued to finance such project, provided upon  
146 retirement of all of such bonds, all right, title and interest in the project  
147 shall revert to and vest in the participating institution for higher

148 education or the participating health care institution or jointly in both  
149 such institutions;

150 (l) "Federally guaranteed security" means any security, investment  
151 or evidence of indebtedness which is either directly or indirectly  
152 insured or guaranteed, in whole or in part, as to the payment of  
153 principal and interest, by the United States of America or any agency  
154 or instrumentality thereof;

155 (m) "Federally insured mortgage loan" means any loan secured by a  
156 mortgage from any participating institution for higher education or  
157 participating health care institution or participating nursing home  
158 which is either directly or indirectly insured or guaranteed, in whole  
159 or in part, as to the repayment of principal and interest, by the United  
160 States of America or any agency or instrumentality thereof, or by any  
161 commitment by the United States of America or any agency or  
162 instrumentality thereof to so insure or guarantee;

163 (n) "Qualified nonprofit organization" means any private, nonprofit  
164 organization qualified under Section 501(c)(3) of the Internal Revenue  
165 Code of 1986, as the same may be amended from time to time, other  
166 than a health care institution, nursing home or institution for higher  
167 education;

168 (o) "Participating qualified nonprofit organization" means a  
169 qualified nonprofit organization which, pursuant to the provisions of  
170 this chapter, shall undertake the financing and construction or  
171 acquisition of a project or shall undertake the refunding or refinancing  
172 of obligations, or of a mortgage, loan or advances made or given to it  
173 to finance, in anticipation of permanent financing or donation from an  
174 outside source, the cost of a project, as provided in and permitted by  
175 this chapter;

176 (p) "Connecticut Higher Education Supplemental Loan Authority"  
177 means the Connecticut Higher Education Supplemental Loan  
178 Authority established as a subsidiary of the authority with powers  
179 granted pursuant to chapter 187b;

180 (q) "Connecticut Student Loan Foundation" means the Connecticut  
181 Student Loan Foundation established pursuant to chapter 187a that is a  
182 subsidiary of the authority as provided in section 10a-203a, and that is  
183 deemed a quasi-public agency for purposes of chapter 12;

184 (r) "Participating community hospital" means a participating health  
185 care institution that (1) is an acute care nonprofit hospital, (2) is not a  
186 teaching hospital or a member of a multihospital system, (3) has  
187 twenty-five or fewer full-time equivalent interns or residents for each  
188 one hundred inpatient beds, and (4) charges less for health care  
189 services than the median prices for such health care services in the  
190 state; and

191 (s) "Eligible project" means construction, renovation, the acquisition  
192 of facilities, the purchase of equipment, including, but not limited to,  
193 technology, and the cost of financing thereof.

194 Sec. 2. Subsection (a) of section 10a-186a of the general statutes is  
195 repealed and the following is substituted in lieu thereof (*Effective July*  
196 *1, 2016*):

197 (a) In connection with the issuance of bonds to finance a project at a  
198 participating nursing home or to refund bonds previously issued by  
199 the authority to finance a project at a participating nursing home, or in  
200 connection with the issuance of bonds to effect a refinancing or other  
201 restructuring with respect to one or more participating nursing homes  
202 as permitted by subsection (b) of this section, to finance dormitories,  
203 residential facilities, student centers, food service facilities and other  
204 auxiliary service facilities and related buildings and improvements at a  
205 public educational institution, to finance The University of Connecticut  
206 Health Center clinical services projects, as defined in subsection (g) of  
207 section 10a-114a, or to finance up to one hundred million dollars, in the  
208 aggregate, for [equipment, including installation and any necessary  
209 building renovations or alterations for the installation and operation of  
210 such equipment, for participating health care institutions at the  
211 discretion of the Secretary of the Office of Policy and Management and  
212 the Treasurer] eligible projects for participating community hospitals

213 and participating nursing homes, the authority may create and  
214 establish one or more reserve funds to be known as special capital  
215 reserve funds and may pay into such special capital reserve funds (1)  
216 any moneys appropriated and made available by the state for the  
217 purposes of such funds, (2) any proceeds of the sale of notes or bonds  
218 for a project, to the extent provided in the resolution of the authority  
219 authorizing the issuance thereof, and (3) any other moneys which may  
220 be made available to the authority for the purpose of such funds from  
221 any other source or sources. The moneys held in or credited to any  
222 special capital reserve fund established under this section, except as  
223 hereinafter provided, shall be used solely for the payment of the  
224 principal of and interest, when due, whether at maturity or by  
225 mandatory sinking fund installments, on bonds of the authority  
226 secured by such capital reserve fund as the same become due, the  
227 purchase of such bonds of the authority, the payment of any  
228 redemption premium required to be paid when such bonds are  
229 redeemed prior to maturity, including in any such case by way of  
230 reimbursement of a provider of bond insurance or of a credit or  
231 liquidity facility that has paid such amounts; provided the authority  
232 shall have power to provide that moneys in any such fund shall not be  
233 withdrawn therefrom at any time in such amount as would reduce the  
234 amount of such funds to less than the maximum amount of principal  
235 and interest becoming due by reasons of maturity or a required  
236 sinking fund installment in the then current or any succeeding  
237 calendar year on the bonds of the authority then outstanding or the  
238 maximum amount permitted to be deposited in such fund by the  
239 Internal Revenue Code of 1986, or any subsequent corresponding  
240 internal revenue code of the United States, as from time to time  
241 amended, to permit the interest on such bonds to be excluded from  
242 gross income for federal tax purposes and secured by such special  
243 capital reserve fund, such amount being herein referred to as the  
244 "required minimum capital reserve", except for the purpose of paying  
245 such principal of, redemption premium and interest on such bonds of  
246 the authority secured by such special capital reserve becoming due  
247 and for the payment of which other moneys of the authority are not



248 available. The authority may provide that it shall not issue bonds  
249 secured by a special capital reserve fund at any time if the required  
250 minimum capital reserve on the bonds outstanding and the bonds then  
251 to be issued and secured by the same special capital reserve fund at the  
252 time of issuance, unless the authority, at the time of the issuance of  
253 such bonds, shall deposit in such special capital reserve fund from the  
254 proceeds of the bonds so to be issued, or otherwise, an amount which,  
255 together with the amount then in such special capital reserve fund, will  
256 be not less than the required minimum capital reserve. On or before  
257 December first, annually, there is deemed to be appropriated from the  
258 state General Fund such sums, if any, as shall be certified by the  
259 chairman or vice-chairman of the authority to the Secretary of the  
260 Office of Policy and Management and the Treasurer of the state, as  
261 necessary to restore each such special capital reserve fund to the  
262 amount equal to the required minimum capital reserve of such fund,  
263 and such amounts shall be allotted and paid to the authority. For the  
264 purpose of evaluation of any such special capital reserve fund,  
265 obligations acquired as an investment for any such fund shall be  
266 valued at market. Nothing contained in this section shall preclude the  
267 authority from establishing and creating other debt service reserve  
268 funds in connection with the issuance of bonds or notes of the  
269 authority which are not special capital reserve funds. Subject to any  
270 agreement or agreements with holders of outstanding notes and bonds  
271 of the authority, any amount or amounts allotted and paid to the  
272 authority pursuant to this section shall be repaid to the state from  
273 moneys of the authority at such time as such moneys are not required  
274 for any other of its corporate purposes and in any event shall be repaid  
275 to the state on the date one year after all bonds and notes of the  
276 authority theretofore issued on the date or dates such amount or  
277 amounts are allotted and paid to the authority or thereafter issued,  
278 together with interest on such bonds and notes, with interest on any  
279 unpaid installments of interest and all costs and expenses in  
280 connection with any action or proceeding by or on behalf of the  
281 holders thereof, are fully met and discharged. No bonds secured by a  
282 special capital reserve fund shall be issued to pay project costs unless

283 the authority is of the opinion and determines that the revenues from  
 284 the project shall be sufficient (A) to pay the principal of and interest on  
 285 the bonds issued to finance the project, (B) to establish, increase and  
 286 maintain any reserves deemed by the authority to be advisable to  
 287 secure the payment of the principal of and interest on such bonds, (C)  
 288 to pay the cost of maintaining the project in good repair and keeping it  
 289 properly insured, and (D) to pay such other costs of the project as may  
 290 be required.

291       Sec. 3. (NEW) (*Effective July 1, 2016*) Notwithstanding the provisions  
 292 of chapter 187 of the general statutes, the authority, in consultation  
 293 with the Office of Policy and Management and the State Treasurer,  
 294 shall establish a self-sufficiency standard applicable to each  
 295 participating community hospital that takes into consideration the  
 296 unique economic circumstances facing such a hospital. Such self-  
 297 sufficiency standard shall be applicable in lieu of other measures of  
 298 credit worthiness when determining eligibility for financing for an  
 299 eligible project for a participating community hospital pursuant to the  
 300 provisions of section 10a-186a of the general statutes, as amended by  
 301 this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	10a-178
Sec. 2	<i>July 1, 2016</i>	10a-186a(a)
Sec. 3	<i>July 1, 2016</i>	New section

***Statement of Legislative Commissioners:***

In Section 1, Subsecs. (a) to (q) of Section 10a-178 were added for punctuation corrections to Subsecs. (e) and (q); and in Section 3, "community hospitals" was changed to "each participating community hospital" and "hospitals" was changed to "a hospital" for consistency with other provisions of the bill and standard drafting conventions.

***PH***       *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:** See Below

**Municipal Impact:** None

**Explanation**

The bill expands the purposes for which the Connecticut Health and Education Facilities Authority (CHEFA) may finance capital projects that are secured by a special capital reserve fund (SCRF). SCRF bonds are a contingent liability of the state, which does not count against the state's statutory limit on General Obligation (GO) bonds in CGS Sec. 3-21.<sup>1</sup> That liability would only be realized in the event that the SCRF fell below the minimum required reserve and the state had to appropriate funds in order to maintain the SCRF minimum balance. If the state were required to do this, there would be a negative effect on the state's cash flow and a loss of short-term interest on the appropriated funds.

**Background**

The state permits quasi-public authorities to issue SCRF-backed bonds because the SCRF provides a higher level of repayment security, which results in a lower rate of interest on the bond issuance.

A SCRF is a debt service reserve fund that is set up at the time the bonds are issued, in an amount equal to the lesser of either one year's principal and interest on the bonds or ten percent of the issue. If the

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<sup>1</sup> CGS Sec. 3-21 imposes a ceiling on the amount of General Fund-supported debt that the Legislature may authorize that is equal to 1.6 times net General Fund tax receipts projected by the Finance, Revenue and Bonding Committee for the fiscal year in which the bonds are authorized.

borrower makes the scheduled debt service payments, the interest earnings on the reserve fund will pay the interest on the bonds that created it and the principal will go to retire the final maturity of the bond issue. If the borrower is unable to pay all or part of the scheduled debt service payments, the reserve may be drawn upon to pay debt service. The reserve provides up to a year's adjustment time to deal with a revenue shortfall. When the SCRF has been drawn down in part or completely, a draw on the General Fund is authorized and the reserve is fully restored. The draw on the General Fund is deemed to be appropriated and is not subject to the constitutional or statutory appropriations cap. All that is required is a certification by the issuing authority of the amount required. If draws on a SCRF continue, the annual draws on the General Fund required to refill it also continue.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 5454*****AN ACT CONCERNING THE CONNECTICUT HEALTH AND EDUCATIONAL FACILITIES AUTHORITY.*****SUMMARY:**

Current law allows the Connecticut Health and Educational Facilities Authority (CHEFA) to establish a special capital reserve fund (SCRF) to finance up to \$100 million in equipment for participating health care institutions (e.g., hospitals and nursing homes) at the discretion of the state treasurer and Office of Policy and Management (OPM) secretary. This bill (1) limits the SCRF to nursing homes and participating community hospitals; (2) expands its permitted uses to include construction, renovation, facility acquisition (including technology) and financing costs; and (3) eliminates the requirement that the financing be at the secretary's and treasurer's discretion.

The bill also requires CHEFA, in consultation with OPM and the state treasurer, to establish a self-sufficiency standard for community hospitals that takes into account their unique economic circumstances. The standard must be applied instead of other measures of credit worthiness to determine a community hospital's qualifications for financing eligible projects.

Under the bill, a "participating community hospital" (1) is an acute care nonprofit hospital, (2) is not a teaching hospital or member of a multihospital system, (3) has 25 or fewer full-time equivalent interns or residents for each 100 inpatient beds, and (4) charges less than the state's median price for health care services (it does not specify how or by whom this is determined).

EFFECTIVE DATE: July 1, 2016

**BACKGROUND****SCRF**

SCRF-backed bonds are contingent liabilities of the state; if a SCRF is exhausted, the General Fund automatically replenishes it, regardless of the state spending cap. By law, CHEFA cannot issue bonds secured by a SCRF unless it determines, subject to the state treasurer's or deputy state treasurer's approval, that project revenues are sufficient to (1) pay the bonds' principal and interest; (2) establish, increase, and maintain any reserves it deems advisable to secure principal and interest payments; (3) pay the project's maintenance and insurance costs; and (4) pay other required project costs (CGS § 1-124).

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea    27    Nay   1    (03/21/2016)